

§ 1201.103 Placing communications in the record; sanctions.

(a) Any communication made in violation of § 1201.102 of this part will be made a part of the record. If the communication was oral, a memorandum stating the substance of the discussion will be placed in the record.

(b) If there has been a violation of § 1201.102 of this part, the judge or the Clerk of the Board, as appropriate, will notify the parties in writing that the regulation has been violated, and will give the parties 10 days to file a response.

(c) The following sanctions are available:

(1) *Parties.* The offending party may be required to show why, in the interest of justice, the claim or motion should not be dismissed, denied, or otherwise adversely affected.

(2) *Board personnel.* Offending Board personnel will be treated in accordance with the Board's standards of conduct.

(3) *Other persons.* The Board may invoke appropriate sanctions against other offending parties.

FINAL DECISIONS

§ 1201.111 Initial decision by judge.

(a) The judge will prepare an initial decision after the record closes, and will serve that decision on the Clerk of the Board, on the Director of the Office of Personnel Management, and on all parties to the appeal, including named parties, permissive intervenors, and intervenors of right.

(b) Each initial decision will contain:

(1) Findings of fact and conclusions of law upon all the material issues of fact and law presented on the record;

(2) The reasons or bases for those findings and conclusions;

(3) An order making final disposition of the case, including appropriate relief;

(4) A statement, if the appellant is the prevailing party, as to whether interim relief is provided effective upon the date of the decision, pending the outcome of any petition for review filed by another party under subpart C of this part;

(5) The date upon which the decision will become final (a date that, for pur-

poses of this section, is 35 days after issuance); and

(6) A statement of any further process available, including, as appropriate, a petition for enforcement under § 1201.182 of this part, a petition for review under § 1201.114, a petition for judicial review, a motion for attorney fees under section 1201.203 of this part, and where a claim for consequential damages or compensatory damages has been raised, the right to an addendum proceeding to determine consequential damages or compensatory damages, with the time to be established by the judge.

(c) *Interim relief.* Under 5 U.S.C. 7701(b)(2), if the appellant is the prevailing party, the initial decision will provide appropriate interim relief to the appellant effective upon the date of the initial decision and remaining in effect until the date of the final order of the Board on any petition for review, unless the judge determines that the granting of interim relief is not appropriate. The agency may decline to return the appellant to his or her place of employment if it determines that the return or presence of the appellant will be unduly disruptive to the work environment. However, pay and benefits must be provided.

[54 FR 53504, Dec. 29, 1989, as amended at 62 FR 17045, Apr. 9, 1997]

§ 1201.112 Jurisdiction of judge.

(a) After issuing the initial decision, the judge will retain jurisdiction over a case only to the extent necessary to:

(1) Correct the transcript, when one is obtained;

(2) Rule on motions for exception to the requirement that a party seeking a transcript must pay for it;

(3) Rule on a request by the appellant for attorney fees, consequential damages, or compensatory damages under subpart H of this part;

(4) Process any petition for enforcement filed under subpart F of this part;

(5) Vacate an initial decision before that decision becomes final under § 1201.113 in order to accept a settlement agreement into the record.